

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RIGHTHAVEN, LLC,

Plaintiff,

v.

DEAN MOSTOFI,

Defendant.

Case No. 2:10-CV-1066-KJD-GWF

ORDER

Presently before the Court is Defendant's Motion for Enlargement of Time (#37) to file motion for attorney's fees. Plaintiff filed a response in opposition (#38). Defendant sought an extension of time on the last day, July 27, 2011, to file a motion for attorney's fees as a prevailing party in a copyright infringement action. The motion was filed by Clyde DeWitt, a Nevada attorney, at the behest of Thomas C. Willcox, an attorney located in Washington, D.C., who appeared subject to *pro hac vice* admission. However, Willcox never filed his *pro hac vice* application or appeared in this action. Defendant alleges that he hired Willcox in order to represent him for the sole purpose of recovering fees in this action, but at the conclusion of the requested extension period he decided to continue representing himself. Defendant then filed his Motion for Attorney's Fees (#41) on August 10, 2011, the last day of the requested extension period, and the same day that DeWitt moved to withdraw as his attorney.

1 Federal Rule of Civil Procedure 6 (b) allows a court to accept a late filing when the failure to
2 act timely is the result of excusable neglect. Late filings caused by inadvertence, mistake or
3 carelessness are permitted under the Rule with approval of the court. See Pioneer Inv. Servs. Co. v.
4 Brunswick Assocs. Ltd. Partnership, 507 U.S. 380, 388 (1993). Here, Plaintiff has not shown
5 sufficient grounds for filing his motion for an extension late. Ostensibly, the extension was sought to
6 have an attorney get familiar with the case and prepare a motion. That did not happen. Therefore,
7 the Court denies the motion for an extension of time. Consequently, the Court denies the motion for
8 attorney's fees as untimely.

9 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion for Enlargement of Time
10 (#37) is **DENIED**;

11 IT IS FURTHER ORDERED that Defendant's Motion for Attorney's Fees (#41) is **DENIED**
12 **as untimely.**

13 DATED this 6th day of October 2011.

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17 Kent J. Dawson
18 United States District Judge
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